

AMENDED IN SENATE APRIL 2, 2009

**SENATE BILL**

**No. 712**

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**Introduced by Senators Padilla, Benoit, Calderon, Corbett, Cox,  
Kehoe, Lowenthal, Simitian, Strickland, Wiggins, and Wright**

February 27, 2009

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An act to amend ~~Sections 25301 and 25302~~ *Section 44273 of the Health and Safety Code, to amend Sections 25301, 25302, 25620.1, 25620.2, 25620.6, 25620.7, and 25620.15 of the Public Resources Code, and to amend Sections 392.1 and 454.5* 381, 384, 392.1, 399, 454.5, 890, and 895 of the Public Utilities Code, relating to the ~~Public Utilities Commission~~ *public utilities*.

LEGISLATIVE COUNSEL'S DIGEST

SB 712, as amended, Padilla. Public Utilities Commission: Division of Ratepayer Advocates.

Under existing law, the Public Utilities Commission has regulatory authority over public utilities and can establish its own procedures, subject to statutory limitations or directions and constitutional requirements of due process. Existing law establishes a division within the Public Utilities Commission, known as the Division of Ratepayer Advocates, formerly called the Office of Ratepayer Advocates, to represent the interests of public utility customers and subscribers, with the goal of obtaining the lowest possible rate for service consistent with reliable and safe service levels.

This bill would conform certain statutory references to the former Office of Ratepayer Advocates to the division's current name.

*Existing law requires the State Energy Resources Conservation and Development Commission to develop, implement, and administer a program, titled the Public Interest Energy Research, Development, and*

*Demonstration Program, to include a full range of research, development, and demonstration activities that are not adequately provided for by competitive and regulated energy markets. Certain statutes, however, refer to the program as the Public Interest Research, Development, and Demonstration Program and the fund established for implementation and administration of the program is the Public Interest Research, Development, and Demonstration Fund.*

*This bill would change statutory references to the program to refer to it as the Public Interest Energy Research, Development, and Demonstration Program and would change the name of the fund established for implementation and administration of the program to the Public Interest Energy Research, Development, and Demonstration Fund.*

Vote: majority. Appropriation: no. Fiscal committee: no.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1     SECTION 1. Section 44273 of the Health and Safety Code is  
2     amended to read:

3     44273. (a) The Alternative and Renewable Fuel and Vehicle  
4     Technology Fund is hereby created in the State Treasury, to be  
5     administered by the commission. The moneys in the fund, upon  
6     appropriation by the Legislature, shall be expended by the  
7     commission to implement the Alternative and Renewable Fuel and  
8     Vehicle Technology Program in accordance with this chapter.

9     (b) Notwithstanding any other provision of law, the sum of ten  
10    million dollars (\$10,000,000) shall be transferred annually from  
11    the Public Interest Energy Research, Development, and  
12    Demonstration Fund created by Section 384 of the Public Utilities  
13    Code to the Alternative and Renewable Fuel and Vehicle  
14    Technology Fund. Prior to the award of any funds from this source,  
15    the commission shall make a determination that the proposed  
16    project will provide benefits to electric or natural gas ratepayers  
17    based upon the commission's adopted criteria.

18    (c) Beginning with the integrated energy policy report adopted  
19    in 2011, and in the subsequent reports adopted thereafter, pursuant  
20    to Section 25302 of the Public Resources Code, the commission  
21    shall include an evaluation of research, development, and

1 deployment efforts funded by this chapter. The evaluation shall  
2 include all of the following:

3 (1) A list of projects funded by the Alternative and Renewable  
4 Fuel and Vehicle Technology Fund.

5 (2) The expected benefits of the projects in terms of air quality,  
6 petroleum use reduction, greenhouse gas emissions reduction,  
7 technology advancement, and progress towards achieving these  
8 benefits.

9 (3) The overall contribution of the funded projects toward  
10 promoting a transition to a diverse portfolio of clean, alternative  
11 transportation fuels and reduced petroleum dependency in  
12 California.

13 (4) Key obstacles and challenges to meeting these goals  
14 identified through funded projects.

15 (5) Recommendations for future actions.

16 ~~SECTION 4.~~

17 *SEC. 2.* Section 25301 of the Public Resources Code is  
18 amended to read:

19 25301. (a) At least every two years, the commission shall  
20 conduct assessments and forecasts of all aspects of energy industry  
21 supply, production, transportation, delivery and distribution,  
22 demand, and prices. The commission shall use these assessments  
23 and forecasts to develop energy policies that conserve resources,  
24 protect the environment, ensure energy reliability, enhance the  
25 state's economy, and protect public health and safety. To perform  
26 these assessments and forecasts, the commission may require  
27 submission of demand forecasts, resource plans, market  
28 assessments, and related outlooks from electric and natural gas  
29 utilities, transportation fuel and technology suppliers, and other  
30 market participants. These assessments and forecasts shall be done  
31 in consultation with the appropriate state and federal agencies  
32 including, but not limited to, the Public Utilities Commission, the  
33 Division of Ratepayer Advocates, the Air Resources Board, the  
34 Electricity Oversight Board, the Independent System Operator,  
35 the Department of Water Resources, the California Consumer  
36 Power and Conservation Financing Authority, the Department of  
37 Transportation, and the Department of Motor Vehicles.

38 (b) In developing the assessments and forecasts prepared  
39 pursuant to subdivision (a), the commission shall do all of the  
40 following:

1 (1) Provide information about the performance of energy  
2 industries.

3 (2) Develop and maintain the analytical capability sufficient to  
4 answer inquiries about energy issues from government, market  
5 participants, and the public.

6 (3) Analyze and develop energy policies.

7 (4) Provide an analytical foundation for regulatory and policy  
8 decisionmaking.

9 (5) Facilitate efficient and reliable energy markets.

10 ~~SEC. 2.~~

11 *SEC. 3.* Section 25302 of the Public Resources Code is  
12 amended to read:

13 25302. (a) ~~Beginning November 1, 2003, and every two years~~  
14 ~~thereafter~~ *On or before November 1 of each odd-numbered year,*  
15 the commission shall adopt an integrated energy policy report.  
16 This integrated report shall contain an overview of major energy  
17 trends and issues facing the state, including, but not limited to,  
18 supply, demand, pricing, reliability, efficiency, and impacts on  
19 public health and safety, the economy, resources, and the  
20 environment. Energy markets and systems shall be grouped and  
21 assessed in three subsidiary volumes:

22 (1) Electricity and natural gas markets.

23 (2) Transportation fuels, technologies, and infrastructure.

24 (3) Public interest energy strategies.

25 (b) The commission shall compile the integrated energy policy  
26 report prepared pursuant to subdivision (a) by consolidating the  
27 analyses and findings of the subsidiary volumes in paragraphs (1),  
28 (2), and (3) of subdivision (a). The integrated energy policy report  
29 shall present policy recommendations based on an indepth and  
30 integrated analysis of the most current and pressing energy issues  
31 facing the state. The analyses supporting this integrated energy  
32 policy report shall explicitly address interfuel and intermarket  
33 effects to provide a more informed evaluation of potential tradeoffs  
34 when developing energy policy across different markets and  
35 systems.

36 (c) The integrated energy policy report shall include an  
37 assessment and forecast of system reliability and the need for  
38 resource additions, efficiency, and conservation that considers all  
39 aspects of energy industries and markets that are essential for the  
40 state economy, general welfare, public health and safety, energy

1 diversity, and protection of the environment. This assessment shall  
2 be based on determinations made pursuant to this chapter.

3 ~~(d) Beginning November 1, 2004, and every two years thereafter,~~

4 *(d) On or before November 1 of each even-numbered year, the*  
5 *commission shall prepare an energy policy review to update*  
6 *analyses from the integrated energy policy report prepared pursuant*  
7 *to subdivisions (a), (b), and (c), or to raise energy issues that have*  
8 *emerged since the release of the integrated energy policy report.*  
9 *The commission may also periodically prepare and release*  
10 *technical analyses and assessments of energy issues and concerns*  
11 *to provide timely and relevant information for the Governor, the*  
12 *Legislature, market participants, and the public.*

13 *(e) In preparation of the report, the commission shall consult*  
14 *with the following entities: the Public Utilities Commission, the*  
15 *Division of Ratepayer Advocates, the State Air Resources Board,*  
16 ~~*the Electricity Oversight Board, the Independent System Operator,*~~  
17 ~~*the Department of Water Resources, the California Consumer*~~  
18 ~~*Power and Conservation Financing Authority, the Department of*~~  
19 *Transportation, and the Department of Motor Vehicles, and any*  
20 *federal, state, and local agencies it deems necessary in preparation*  
21 *of the integrated energy policy report. To assure collaborative*  
22 *development of state energy policies, these agencies shall make a*  
23 *good faith effort to provide data, assessment, and proposed*  
24 *recommendations for review by the commission.*

25 *(f) The commission shall provide the report to the Public*  
26 *Utilities Commission, the Division of Ratepayer Advocates, the*  
27 ~~*State Air Resources Board, the Electricity Oversight Board, the*~~  
28 ~~*Independent System Operator, the Department of Water Resources,*~~  
29 ~~*the California Consumer Power and Conservation Financing*~~  
30 ~~*Authority, and the Department of Transportation.*~~ For the purpose  
31 of ensuring consistency in the underlying information that forms  
32 the foundation of energy policies and decisions affecting the state,  
33 those entities shall carry out their energy-related duties and  
34 responsibilities based upon the information and analyses contained  
35 in the report. If an entity listed in this subdivision objects to  
36 information contained in the report, and has a reasonable basis for  
37 that objection, the entity shall not be required to consider that  
38 information in carrying out its energy-related duties.

39 *(g) The commission shall make the report accessible to state,*  
40 *local, and federal entities and to the general public.*

1     SEC. 4. Section 25620.1 of the Public Resources Code is  
2     amended to read:

3     25620.1. (a) The commission shall develop, implement, and  
4     administer the Public Interest *Energy* Research, Development, and  
5     Demonstration Program that is hereby created. The program shall  
6     include a full range of research, development, and demonstration  
7     activities that, as determined by the commission, are not adequately  
8     provided for by competitive and regulated markets. The  
9     commission shall administer the program consistent with the  
10    policies of this chapter.

11    (b) The general goal of the program is to develop, and help bring  
12    to market, energy technologies that provide increased  
13    environmental benefits, greater system reliability, and lower system  
14    costs, and that provide tangible benefits to electric utility customers  
15    through the following investments:

16    (1) Advanced transportation technologies that reduce air  
17    pollution and greenhouse gas emissions beyond applicable  
18    standards, and that benefit electricity and natural gas ratepayers.

19    (2) Increased energy efficiency in buildings, appliances, lighting,  
20    and other applications beyond applicable standards, and that benefit  
21    electric utility customers.

22    (3) Advanced electricity generation technologies that exceed  
23    applicable standards to increase reductions in greenhouse gas  
24    emissions from electricity generation, and that benefit electric  
25    utility customers.

26    (4) Advanced electricity technologies that reduce or eliminate  
27    consumption of water or other finite resources, increase use of  
28    renewable energy resources, or improve transmission or distribution  
29    of electricity generated from renewable energy resources.

30    (c) To achieve the goals established in subdivision (b), the  
31    commission shall adopt a portfolio approach for the program that  
32    does all of the following:

33    (1) Effectively balances the risks, benefits, and time horizons  
34    for various activities and investments that will provide tangible  
35    energy or environmental benefits for California electricity  
36    customers.

37    (2) Emphasizes innovative energy supply and end use  
38    technologies, focusing on their reliability, affordability, and  
39    environmental attributes.

1 (3) Includes projects that have the potential to enhance  
2 transmission and distribution capabilities.

3 (4) Includes projects that have the potential to enhance the  
4 reliability, peaking power, and storage capabilities of renewable  
5 energy.

6 (5) Demonstrates a balance of benefits to all sectors that  
7 contribute to the funding under Section 399.8 of the Public Utilities  
8 Code.

9 (6) Addresses key technical and scientific barriers.

10 (7) Demonstrates a balance between short-term, mid-term, and  
11 long-term potential.

12 (8) Ensures that prior, current, and future research not be  
13 unnecessarily duplicated.

14 (9) Provides for the future market utilization of projects funded  
15 through the program.

16 (10) Ensures an open project selection process and encourages  
17 the awarding of research funding for a diverse type of research as  
18 well as a diverse award recipient base and equally considers  
19 research proposals from the public and private sectors.

20 (11) Coordinates with other related research programs.

21 (d) The term “award,” as used in this chapter, may include, but  
22 is not limited to, contracts, grants, interagency agreements, loans,  
23 and other financial agreements designed to fund public interest  
24 energy research, demonstration, and development projects or  
25 programs.

26 *SEC. 5. Section 25620.2 of the Public Resources Code is*  
27 *amended to read:*

28 25620.2. (a) To ensure the efficient implementation and  
29 administration of the Public Interest Energy Research,  
30 Development, and Demonstration Program, the commission shall  
31 do both of the following:

32 (1) Develop procedures for the solicitation of award applications  
33 for project or program funding, and to ensure efficient program  
34 management.

35 (2) Evaluate and select programs and projects, based on merit,  
36 that will be funded under the program.

37 (b) The commission shall adopt regulations to implement the  
38 program, in accordance with the following procedures:

- 1 (1) Prepare a preliminary text of the proposed regulation and  
2 provide a copy of the preliminary text to any person requesting a  
3 copy.
- 4 (2) Provide public notice of the proposed regulation to any  
5 person who has requested notice of the regulations prepared by  
6 the commission. The notice shall contain all of the following:
  - 7 (A) A clear overview explaining the proposed regulation.
  - 8 (B) Instructions on how to obtain a copy of the proposed  
9 regulations.
  - 10 (C) A statement that if a public hearing is not scheduled for the  
11 purpose of reviewing a proposed regulation, any person may  
12 request, not later than 15 days prior to the close of the written  
13 comment period, a public hearing conducted in accordance with  
14 commission procedures.
- 15 (3) Accept written public comments for 30 calendar days after  
16 providing the notice required in paragraph (2).
- 17 (4) Certify that all written comments were read and considered  
18 by the commission.
- 19 (5) Place all written comments in a record that includes copies  
20 of any written factual support used in developing the proposed  
21 regulation, including written reports and copies of any transcripts  
22 or minutes in connection with any public hearings on the adoption  
23 of the regulation. The record shall be open to public inspection  
24 and available to the courts.
- 25 (6) Provide public notice of any substantial revision of the  
26 proposed regulation at least 15 days prior to the expiration of the  
27 deadline for public comments and comment period using the  
28 procedures provided in paragraph (2).
- 29 (7) Conduct public hearings, if a hearing is requested by an  
30 interested party, that shall be conducted in accordance with  
31 commission procedures.
- 32 (8) Adopt any proposed regulation at a regularly scheduled and  
33 noticed meeting of the commission. The regulation shall become  
34 effective immediately unless otherwise provided by the  
35 commission.
- 36 (9) Publish any adopted regulation in a manner that makes copies  
37 of the regulation easily available to the public. Any adopted  
38 regulation shall also be made available on the Internet. The  
39 commission shall transmit a copy of an adopted regulation to the  
40 Office of Administrative Law for publication, or, if the commission



determines that printing the regulation is impractical, an appropriate reference as to where a copy of the regulation may be obtained.

(10) Notwithstanding any other provision of law, this subdivision provides an interim exception from the requirements of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code for regulations required to implement Sections 25620.1 and 25620.2 that are adopted under the procedures specified in this subdivision.

(11) This subdivision shall become inoperative on January 1, 2012, unless a later enacted statute deletes or extends that date. However, after January 1, 2012, the commission is not required to repeat any procedural step in adopting a regulation that has been completed before January 1, 2012, using the procedures specified in this subdivision.

*SEC. 6. Section 25620.6 of the Public Resources Code is amended to read:*

25620.6. The commission, in consultation with the Department of General Services, may purchase insurance coverage necessary to implement an award. Funding for the purchase of insurance may be made from money in the Public Interest *Energy* Research, Development, and Demonstration Fund created pursuant to Section 384 of the Public Utilities Code.

*SEC. 7. Section 25620.7 of the Public Resources Code is amended to read:*

25620.7. (a) The commission may contract for, or through interagency agreement obtain, technical, scientific, or administrative services or expertise from one or more entities, to support the program. Funding for this purpose shall be made from money in the Public Interest *Energy* Research, Development, and Demonstration Fund.

(b) The commission may select the services or expertise described in subdivision (a), pursuant to Section 25620.5. In the event that contracts or interagency agreements have been made to multiple entities and their subcontractors for similar purposes, the commission may select from among those entities the particular expertise needed for a specified type of work. Selection of the particular expertise may be based solely on a review of qualifications, including the specific expertise required, availability of the expertise, or access to a resource of special relevance to the work, including, but not limited to, a database, model, technical

1 facility, or a collaborative or institutional affiliation that will  
2 expedite the quality and performance of the work.

3 *SEC. 8. Section 25620.15 of the Public Resources Code is*  
4 *amended to read:*

5 25620.15. (a) In order to ensure that prudent investments in  
6 research, development, and demonstration of energy efficient  
7 technologies continue to produce substantial economic,  
8 environmental, public health, and reliability benefits, it is the policy  
9 of the state and the intent of the Legislature that funds made  
10 available, upon appropriation, for energy related public interest  
11 *energy* research, development, and demonstration programs shall  
12 be used to advance science or technology that is not adequately  
13 provided by competitive and regulated markets.

14 (b) Notwithstanding any other provision of law, money collected  
15 for public interest *energy* research, development, and demonstration  
16 pursuant to Section 399.8 of the Public Utilities Code shall be  
17 transferred to the Public Interest *Energy* Research, Development,  
18 and Demonstration Fund. Money collected between January 1,  
19 2007, and January 1, 2012, shall be used for the purposes specified  
20 in this chapter.

21 (c) In lieu of the Public Utilities Commission retaining funds  
22 authorized pursuant to Section 381 of the Public Utilities Code for  
23 investments made by electrical corporations in public interest  
24 *energy* research, development, and demonstration projects for  
25 transmission and distribution functions, up to 10 percent of the  
26 funds transferred to the commission pursuant to subdivision (b)  
27 shall be awarded to electrical corporations for public interest *energy*  
28 research, development, and demonstration projects for transmission  
29 and distribution functions consistent with the policies and subject  
30 to the requirements of this chapter.

31 *SEC. 9. Section 381 of the Public Utilities Code is amended*  
32 *to read:*

33 381. (a) To ensure that the funding for the programs described  
34 in subdivision (b) and Section 382 are not commingled with other  
35 revenues, the commission shall require each electrical corporation  
36 to identify a separate rate component to collect the revenues used  
37 to fund these programs. The rate component shall be a  
38 nonbypassable element of the local distribution service and  
39 collected on the basis of usage.

1 (b) The commission shall allocate funds collected pursuant to  
2 subdivision (a), and any interest earned on collected funds, to  
3 programs that enhance system reliability and provide in-state  
4 benefits as follows:

5 (1) Cost-effective energy efficiency and conservation activities.

6 (2) Public interest *energy* research and development not  
7 adequately provided by competitive and regulated markets.

8 (3) In-state operation and development of existing and new and  
9 emerging eligible renewable energy resources, as defined in Section  
10 399.12.

11 (c) The Public Utilities Commission shall order the respective  
12 electrical corporations to collect and spend these funds at the levels  
13 and for the purposes required in Section 399.8.

14 (d) Each electrical corporation shall allow customers to make  
15 voluntary contributions through their utility bill payments as either  
16 a fixed amount or a variable amount to support programs  
17 established pursuant to paragraph (3) of subdivision (b). Funds  
18 collected by electrical corporations for these purposes shall be  
19 forwarded in a timely manner to the appropriate fund as specified  
20 by the commission.

21 *SEC. 10. Section 384 of the Public Utilities Code is amended*  
22 *to read:*

23 384. (a) Funds transferred to the State Energy Resources  
24 Conservation and Development Commission pursuant to this article  
25 for purposes of public interest *energy* research, development, and  
26 demonstration shall be transferred to the Public Interest *Energy*  
27 Research, Development, and Demonstration Fund, which is hereby  
28 created in the State Treasury. The fund is a trust fund and shall  
29 contain money from all interest, repayments, disencumbrances,  
30 royalties, and any other proceeds appropriated, transferred, or  
31 otherwise received for purposes pertaining to public interest  
32 research, development, and demonstration. Any appropriations  
33 that are made from the fund shall have an encumbrance period of  
34 not longer than two years, and a liquidation period of not longer  
35 than four years.

36 (b) Funds deposited in the Public Interest *Energy* Research,  
37 Development, and Demonstration Fund may be expended for  
38 projects that serve the energy needs of both stationary and  
39 transportation purposes if the research provides an electricity  
40 ratepayer benefit.

1 (c) The ~~State Energy Resources Conservation and Development~~  
2 Commission shall report annually to the appropriate budget  
3 committees of the Legislature on any encumbrances or liquidations  
4 that are outstanding at the time the commission's budget is  
5 submitted to the Legislature for review.

6 ~~SEC. 3.~~

7 *SEC. 11.* Section 392.1 of the Public Utilities Code is amended  
8 to read:

9 392.1. (a) The commission shall compile and regularly update  
10 the following information: names and contact numbers of registered  
11 providers, information to assist consumers in making service  
12 choices, and the number of customer complaints against specific  
13 providers in relation to the number of customers served by those  
14 providers and the disposition of those complaints. To facilitate this  
15 function, registered entities shall file with the commission  
16 information describing the terms and conditions of any standard  
17 service plan made available to residential and small commercial  
18 customers. The commission shall adopt a standard format for this  
19 filing. The commission shall maintain and make generally available  
20 a list of entities offering electrical services operating in California.  
21 This list shall include all registered providers and those providers  
22 not required to be registered who request the commission to be  
23 included in the list. The commission shall, upon request, make this  
24 information available at no charge. Notwithstanding any other  
25 provision of law, public agencies which are registered entities shall  
26 be required to disclose their terms and conditions of service  
27 contracts only to the same extent that other registered entities  
28 would be required to disclose the same or similar service contracts.

29 (b) The commission shall issue public alerts about companies  
30 attempting to provide electric service in the state in an unauthorized  
31 or fraudulent manner as defined in subdivision (b) of Section  
32 394.25.

33 (c) The commission shall direct the Division of Ratepayer  
34 Advocates to collect and analyze information provided pursuant  
35 to subdivision (a) for purposes of preparing easily understandable  
36 informational guides or other tools to help residential and small  
37 commercial customers understand how to evaluate competing  
38 electric service options. In implementing these provisions, the  
39 commission shall direct the Division of Ratepayer Advocates to  
40 pay special attention to ensuring that customers, especially those

1 with limited-English-speaking ability or other disadvantages when  
2 dealing with marketers, receive correct, reliable, and easily  
3 understood information to help them make informed choices. The  
4 Division of Ratepayer Advocates shall not make specific  
5 recommendations or rank the relative attractiveness of specific  
6 service offerings of registered providers of electric services.

7 *SEC. 12. Section 399 of the Public Utilities Code is amended*  
8 *to read:*

9 399. (a) This article shall be known, and may be cited, as the  
10 Reliable Electric Service Investments Act.

11 (b) The Legislature finds and declares that safe, reliable electric  
12 service is of utmost importance to the citizens of this state, and its  
13 economy.

14 (c) The Legislature further finds and declares that in order to  
15 ensure that the citizens of this state continue to receive safe,  
16 reliable, affordable, and environmentally sustainable electric  
17 service, it is essential that prudent investments continue to be made  
18 in all of the following areas:

- 19 (1) To protect the integrity of the electric distribution grid.
- 20 (2) To ensure an adequately sized and trained utility workforce.
- 21 (3) To ensure cost-effective energy efficiency improvements.
- 22 (4) To achieve a sustainable supply of renewable energy.
- 23 (5) To advance public interest *energy* research, development  
24 and demonstration programs not adequately provided by  
25 competitive and regulated markets.

26 (d) It is the intent of the Legislature to reaffirm, without  
27 requiring revision, California's doctrine, as reflected in regulatory  
28 and judicial decisions, regarding electrical corporations' reasonable  
29 opportunity to recover costs and investments associated with their  
30 electric distribution grid and the reasonable opportunity to attract  
31 capital for investment on reasonable terms.

32 (e) The Legislature further finds and declares all of the  
33 following:

- 34 (1) Acting under applicable constitutional and statutory  
35 authorities, the Public Utilities Commission and the boards of local  
36 publicly owned electric utilities have included in regulated  
37 electricity prices, investments that are essential to maintaining  
38 system reliability, reducing California electricity users' bills, and  
39 mitigating environmental costs of California users' electricity  
40 consumption.

(2) Among the most important of these “system benefits” investments categories are energy efficiency, renewable energy, and public interest *energy* research, development and demonstration (RD&D).

(3) Energy efficiency investments funded from California’s usage-based charges on electricity distribution help improve systemwide reliability by reducing demand in times and areas of system congestion, and at the same time reduce all California electricity users’ costs. These investments also significantly reduce environmental costs associated with California’s electricity consumption, including, but not limited to, degradation of the state’s air, water, and land resources.

(4) California’s in-state renewable energy resources help alleviate supply deficits that could threaten electric system reliability, reduce environmental costs associated with California’s electricity consumption, and increase the diversity of the electricity system’s fuel mix, reducing electricity users’ exposure to fossil-fuel price volatility.

(5) California’s public interest RD&D investments enhance private and regulated sector investment in electricity system technologies, and are designed specifically to help ensure sustained improvement in the economic and environmental performance of the distribution, transmission, and generation and end-use systems that serve California electricity users.

(6) California has established a long tradition of recovering system benefits investments through usage-based electricity charges, which is reflected in at least two decades of electricity price regulation by the commission, the boards of local publicly owned electric utilities, and the mandate of the Legislature in Chapter 854 of the Statutes of 1996 (Assembly Bill 1890 of the 1995–96 Regular Session of the Legislature) and Chapter 905 of the Statutes of 1997 (Senate Bill 90 of the 1997–98 Regular Session of the Legislature).

(7) Unless the Legislature acts to extend the mandate of this article for minimum levels of usage based system benefits charges, California electricity users are at substantial risk of higher economic and environmental costs and degraded reliability.

~~SEC. 4.~~

*SEC. 13.* Section 454.5 of the Public Utilities Code is amended to read:

1 454.5. (a) The commission shall specify the allocation of  
2 electricity, including quantity, characteristics, and duration of  
3 electricity delivery, that the Department of Water Resources shall  
4 provide under its power purchase agreements to the customers of  
5 each electrical corporation, which shall be reflected in the electrical  
6 corporation's proposed procurement plan. Each electrical  
7 corporation shall file a proposed procurement plan with the  
8 commission not later than 60 days after the commission specifies  
9 the allocation of electricity. The proposed procurement plan shall  
10 specify the date that the electrical corporation intends to resume  
11 procurement of electricity for its retail customers, consistent with  
12 its obligation to serve. After the commission's adoption of a  
13 procurement plan, the commission shall allow not less than 60  
14 days before the electrical corporation resumes procurement  
15 pursuant to this section.

16 (b) An electrical corporation's proposed procurement plan shall  
17 include, but not be limited to, all of the following:

18 (1) An assessment of the price risk associated with the electrical  
19 corporation's portfolio, including any utility-retained generation,  
20 existing power purchase and exchange contracts, and proposed  
21 contracts or purchases under which an electrical corporation will  
22 procure electricity, electricity demand reductions, and  
23 electricity-related products and the remaining open position to be  
24 served by spot market transactions.

25 (2) A definition of each electricity product, electricity-related  
26 product, and procurement related financial product, including  
27 support and justification for the product type and amount to be  
28 procured under the plan.

29 (3) The duration of the plan.

30 (4) The duration, timing, and range of quantities of each product  
31 to be procured.

32 (5) A competitive procurement process under which the  
33 electrical corporation may request bids for procurement-related  
34 services, including the format and criteria of that procurement  
35 process.

36 (6) An incentive mechanism, if any incentive mechanism is  
37 proposed, including the type of transactions to be covered by that  
38 mechanism, their respective procurement benchmarks, and other  
39 parameters needed to determine the sharing of risks and benefits.

(7) The upfront standards and criteria by which the acceptability and eligibility for rate recovery of a proposed procurement transaction will be known by the electrical corporation prior to execution of the transaction. This shall include an expedited approval process for the commission's review of proposed contracts and subsequent approval or rejection thereof. The electrical corporation shall propose alternative procurement choices in the event a contract is rejected.

(8) Procedures for updating the procurement plan.

(9) A showing that the procurement plan will achieve the following:

(A) The electrical corporation will, in order to fulfill its unmet resource needs and in furtherance of Section 701.3, until a 20 percent renewable resources portfolio is achieved, procure renewable energy resources with the goal of ensuring that at least an additional 1 percent per year of the electricity sold by the electrical corporation is generated from renewable energy resources, provided sufficient funds are made available pursuant to Sections 399.6 and 399.15, to cover the above-market costs for new renewable energy resources.

(B) The electrical corporation will create or maintain a diversified procurement portfolio consisting of both short-term and long-term electricity and electricity-related and demand reduction products.

(C) The electrical corporation will first meet its unmet resource needs through all available energy efficiency and demand reduction resources that are cost effective, reliable, and feasible.

(10) The electrical corporation's risk management policy, strategy, and practices, including specific measures of price stability.

(11) A plan to achieve appropriate increases in diversity of ownership and diversity of fuel supply of nonutility electrical generation.

(12) A mechanism for recovery of reasonable administrative costs related to procurement in the generation component of rates.

(c) The commission shall review and accept, modify, or reject each electrical corporation's procurement plan. The commission's review shall consider each electrical corporation's individual procurement situation, and shall give strong consideration to that situation in determining which one or more of the features set forth



1 in this subdivision shall apply to that electrical corporation. A  
2 procurement plan approved by the commission shall contain one  
3 or more of the following features, provided that the commission  
4 may not approve a feature or mechanism for an electrical  
5 corporation if it finds that the feature or mechanism would impair  
6 the restoration of an electrical corporation's creditworthiness or  
7 would lead to a deterioration of an electrical corporation's  
8 creditworthiness:

9 (1) A competitive procurement process under which the  
10 electrical corporation may request bids for procurement-related  
11 services. The commission shall specify the format of that  
12 procurement process, as well as criteria to ensure that the auction  
13 process is open and adequately subscribed. Any purchases made  
14 in compliance with the commission-authorized process shall be  
15 recovered in the generation component of rates.

16 (2) An incentive mechanism that establishes a procurement  
17 benchmark or benchmarks and authorizes the electrical corporation  
18 to procure from the market, subject to comparing the electrical  
19 corporation's performance to the commission-authorized  
20 benchmark or benchmarks. The incentive mechanism shall be  
21 clear, achievable, and contain quantifiable objectives and standards.  
22 The incentive mechanism shall contain balanced risk and reward  
23 incentives that limit the risk and reward of an electrical corporation.

24 (3) Upfront achievable standards and criteria by which the  
25 acceptability and eligibility for rate recovery of a proposed  
26 procurement transaction will be known by the electrical corporation  
27 prior to the execution of the bilateral contract for the transaction.  
28 The commission shall provide for expedited review and either  
29 approve or reject the individual contracts submitted by the electrical  
30 corporation to ensure compliance with its procurement plan. To  
31 the extent the commission rejects a proposed contract pursuant to  
32 this criteria, the commission shall designate alternative procurement  
33 choices obtained in the procurement plan that will be recoverable  
34 for ratemaking purposes.

35 (d) A procurement plan approved by the commission shall  
36 accomplish each of the following objectives:

37 (1) Enable the electrical corporation to fulfill its obligation to  
38 serve its customers at just and reasonable rates.

39 (2) Eliminate the need for after-the-fact reasonableness reviews  
40 of an electrical corporation's actions in compliance with an

1 approved procurement plan, including resulting electricity  
2 procurement contracts, practices, and related expenses. However,  
3 the commission may establish a regulatory process to verify and  
4 assure that each contract was administered in accordance with the  
5 terms of the contract, and contract disputes which may arise are  
6 reasonably resolved.

7 (3) Ensure timely recovery of prospective procurement costs  
8 incurred pursuant to an approved procurement plan. The  
9 commission shall establish rates based on forecasts of procurement  
10 costs adopted by the commission, actual procurement costs  
11 incurred, or combination thereof, as determined by the commission.  
12 The commission shall establish power procurement balancing  
13 accounts to track the differences between recorded revenues and  
14 costs incurred pursuant to an approved procurement plan. The  
15 commission shall review the power procurement balancing  
16 accounts, not less than semiannually, and shall adjust rates or order  
17 refunds, as necessary, to promptly amortize a balancing account,  
18 according to a schedule determined by the commission. Until  
19 January 1, 2006, the commission shall ensure that any  
20 overcollection or undercollection in the power procurement  
21 balancing account does not exceed 5 percent of the electrical  
22 corporation's actual recorded generation revenues for the prior  
23 calendar year excluding revenues collected for the Department of  
24 Water Resources. The commission shall determine the schedule  
25 for amortizing the overcollection or undercollection in the  
26 balancing account to ensure that the 5 percent threshold is not  
27 exceeded. After January 1, 2006, this adjustment shall occur when  
28 deemed appropriate by the commission consistent with the  
29 objectives of this section.

30 (4) Moderate the price risk associated with serving its retail  
31 customers, including the price risk embedded in its long-term  
32 supply contracts, by authorizing an electrical corporation to enter  
33 into financial and other electricity-related product contracts.

34 (5) Provide for just and reasonable rates, with an appropriate  
35 balancing of price stability and price level in the electrical  
36 corporation's procurement plan.

37 (e) The commission shall provide for the periodic review and  
38 prospective modification of an electrical corporation's procurement  
39 plan.

1 (f) The commission may engage an independent consultant or  
2 advisory service to evaluate risk management and strategy. The  
3 reasonable costs of any consultant or advisory service is a  
4 reimbursable expense and eligible for funding pursuant to Section  
5 631.

6 (g) The commission shall adopt appropriate procedures to ensure  
7 the confidentiality of any market sensitive information submitted  
8 in an electrical corporation's proposed procurement plan or  
9 resulting from or related to its approved procurement plan,  
10 including, but not limited to, proposed or executed power purchase  
11 agreements, data request responses, or consultant reports, or any  
12 combination, provided that the Division of Ratepayer Advocates  
13 and other consumer groups that are nonmarket participants shall  
14 be provided access to this information under confidentiality  
15 procedures authorized by the commission.

16 (h) Nothing in this section alters, modifies, or amends the  
17 commission's oversight of affiliate transactions under its rules and  
18 decisions or the commission's existing authority to investigate and  
19 penalize an electrical corporation's alleged fraudulent activities,  
20 or to disallow costs incurred as a result of gross incompetence,  
21 fraud, abuse, or similar grounds. Nothing in this section expands,  
22 modifies, or limits the State Energy Resources Conservation and  
23 Development Commission's existing authority and responsibilities  
24 as set forth in Sections 25216, 25216.5, and 25323 of the Public  
25 Resources Code.

26 (i) An electrical corporation that serves less than 500,000 electric  
27 retail customers within the state may file with the commission a  
28 request for exemption from this section, which the commission  
29 shall grant upon a showing of good cause.

30 (j) (1) Prior to its approval pursuant to Section 851 of any  
31 divestiture of generation assets owned by an electrical corporation  
32 on or after the date of enactment of the act adding this section, the  
33 commission shall determine the impact of the proposed divestiture  
34 on the electrical corporation's procurement rates and shall approve  
35 a divestiture only to the extent it finds, taking into account the  
36 effect of the divestiture on procurement rates, that the divestiture  
37 is in the public interest and will result in net ratepayer benefits.

38 (2) Any electrical corporation's procurement necessitated as a  
39 result of the divestiture of generation assets on or after the effective  
40 date of the act adding this subdivision shall be subject to the

1 mechanisms and procedures set forth in this section only if its  
2 actual cost is less than the recent historical cost of the divested  
3 generation assets.

4 (3) Notwithstanding paragraph (2), the commission may deem  
5 proposed procurement eligible to use the procedures in this section  
6 upon its approval of asset divestiture pursuant to Section 851.

7 *SEC. 14. Section 890 of the Public Utilities Code is amended*  
8 *to read:*

9 890. (a) ~~On and after January 1, 2001, there shall be imposed~~  
10 ~~a surcharge on all natural gas consumed in this state.~~ The  
11 commission shall establish a surcharge *on all natural gas consumed*  
12 *in this state* to fund low-income assistance programs required by  
13 Sections 739.1, 739.2, and 2790 and cost-effective energy  
14 efficiency and conservation activities and public interest *energy*  
15 research and development authorized by Section 740 and not  
16 adequately provided by the competitive and regulated markets.  
17 Upon implementation of this article, funding for those programs  
18 shall be removed from the rates of gas utilities.

19 (b) (1) Except as specified in Section 898, a public utility gas  
20 corporation, as defined in subdivision (b) of Section 891, shall  
21 collect the surcharge imposed pursuant to subdivision (a) from  
22 any person consuming natural gas in this state who receives gas  
23 service from the public utility gas corporation.

24 (2) A public utility gas corporation is relieved from liability to  
25 collect the surcharge insofar as the base upon which the surcharge  
26 is imposed is represented by accounts which have been found to  
27 be worthless and charged off in accordance with generally accepted  
28 accounting principles. If the public utility gas corporation has  
29 previously paid the amount of the surcharge it may, under  
30 regulations prescribed by the State Board of Equalization, take as  
31 a deduction on its return the amount found to be worthless and  
32 charged off. If any accounts are thereafter collected in whole or  
33 in part, the surcharge so collected shall be paid with the first return  
34 filed after that collection. The commission may by regulation  
35 promulgate other rules with respect to uncollected or worthless  
36 accounts as it determines to be necessary to the fair and efficient  
37 administration of this part.

38 (c) Except as specified in Section 898, all persons consuming  
39 natural gas in this state that has been transported by an interstate

1 pipeline, as defined in subdivision (c) of Section 891, shall be  
2 liable for the surcharge imposed pursuant to subdivision (a).

3 (d) The commission shall annually determine the amount of  
4 money required for the following year to administer this chapter  
5 and fund the natural gas related programs described in subdivision  
6 (a) for the service territory of each public utility gas corporation.

7 (e) The commission shall annually establish a surcharge rate  
8 for each class of customer for the service territory of each public  
9 utility gas corporation. A customer of an interstate gas pipeline,  
10 as defined in Section 891, shall pay the same surcharge rate as the  
11 customer would pay if the customer received service from the  
12 public utility gas corporation in whose service territory the  
13 customer is located. The commission shall determine the total  
14 volume of retail natural gas transported within the service territory  
15 of a utility gas provider, that is not subject to exemption pursuant  
16 to Section 896, for the purpose of establishing the surcharge rate.

17 (f) The commission shall allocate the surcharge for gas used by  
18 all customers, including those customers who were not subject to  
19 the surcharge prior to January 1, 2001.

20 (g) The commission shall notify the State Board of Equalization  
21 of the surcharge rate for each class of customer served by an  
22 interstate pipeline in the service territory of a public utility gas  
23 corporation.

24 (h) The State Board of Equalization shall notify each person  
25 who consumes natural gas delivered by an interstate pipeline of  
26 the surcharge rate for each class of customer within the service  
27 territory of a public utility gas corporation.

28 (i) The surcharge imposed pursuant to subdivision (a) shall be  
29 in addition to any other charges for natural gas sold or transported  
30 for consumption in this state. ~~Effective on July 1, 2001, the~~ The  
31 surcharge imposed pursuant to this article shall be identified as a  
32 separate line item on the bill of a customer of a public utility gas  
33 corporation.

34 (j) Notwithstanding subdivision (a), public utility gas  
35 corporations shall continue to collect in rates those costs of  
36 programs described in subdivision (a) of Section 890 that are  
37 uncollected prior to the operative date of this article.

38 *SEC. 15. Section 895 of the Public Utilities Code is amended*  
39 *to read:*

1     895. Notwithstanding Section 13340 of the Government Code,  
2     moneys in the Gas Consumption Surcharge Fund are continuously  
3     appropriated, without regard to fiscal years, as follows:

4     (a) To the commission or an entity designated by the commission  
5     to fund programs described in subdivision (a) of Section 890. If  
6     the commission designates the State Energy Resources  
7     Conservation and Development Commission to receive funds for  
8     public interest *energy* research and development, both of the  
9     following shall apply:

10    (1) The Controller shall transfer funds to a separate subaccount  
11    within the Public Interest *Energy* Research, Development, and  
12    Demonstration Fund to pay the State Energy Resources  
13    Conservation and Development Commission for its costs in  
14    carrying out its duties and responsibilities under this article.

15    (2) The State Energy Resources Conservation and Development  
16    Commission may administer the program pursuant to Chapter 7.1  
17    (commencing with Section 25620) of Division 15 of the Public  
18    Resources Code.

19    (b) To pay the commission for its costs in carrying out its duties  
20    and responsibilities under this article.

21    (c) To pay the State Board of Equalization for its costs in  
22    administering this article.